

REMARKS/ARGUMENTS

Prior to entry of this amendment, the application included claims 1-9. Claims 1-8 have been amended. No claims have been canceled or added. Hence, after entry of this Amendment, claims 1-9 stand pending for examination.

Rejections Under 35 U.S.C. § 103

Claims 1-4, 6 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2003/0204579 to Lutz (“Lutz”) in view of U.S. Patent No. 6,327,677 to Garg et al. (“Garg”). Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lutz and Garg as applied to claim 2, and further in view of U.S. Patent No. 7,061,874 to Merugu et al. (“Merugu”). Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lutz and Garg as applied to claims 1 and 2, in view of U.S. Patent Publication No. 2003/0033395 to Sato (“Sato”). Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lutz and Garg as applied to claims 1 and 6, in view of U.S. Patent No. 6,223,222 to Fijolek et al. (“Fijolek”). Applicants traverse.

The combination of Lutz and Garg does not teach or suggest each and every element of the claims. First, these references fail to disclose a measurement device selecting means. Indeed, Lutz describes a user that obtains network management services (§ [0040]), the user pre-selects an analyzer which uses a certain management protocol (§ [0042]), the user sends the analyzer selection to the service provider (§ [0042]), and the user specifies the network device(s) which shall be subject to management (§ [0043]). Thus, in Lutz, a user acts as the measurement device selecting means. Moreover, Lutz also does not teach or suggest a measurement device selecting means that selects a measurement device that is capable of measuring a segment indicated by the path information included in a user request. As noted in the Office Action, Lutz does not disclose a user request that includes path information between two terminals (Office Action, page 6). Therefore, because Lutz does not disclose such a user request, Lutz also cannot disclose a measurement device selecting means that selects a user

request based on path information that it has not received. Garg does not cure these deficiencies in Lutz.

Second, Garg does not disclose a user request that includes path information between two terminals and a measurement type. The Office Action points to a number of portions of Garg that supposedly teach this recitation. For example, the Office Action points to col. 5, ll. 14-23, which recites the following:

Network monitor 22 includes a data collection module 30 that collects information from various devices or applications, such as information regarding network utilization (or device utilization), lost packets, response time, or number of errors. Data collection module 30 collects information regarding the operation or performance of the network environment on one or more communication links 31. Data collection module 30 can collect data from any number of networks and any number of network devices or applications.

The claim specifies that the path information is between two terminals. Nothing in this portion of Garg describes path information between two terminals. Moreover, this portion of Garg does not describe such information being received from a user request at a receiving means. Instead, this portion of Garg describes what can be monitored at a network monitor.

The Office Action also points to col. 6, ll. 30-36, which recites the following:

The data is collected, for example, using data collection module 30 shown in FIG. 2. A request for information (such as a status request) is sent to one or more network devices or applications at various time intervals. The request for information requests details regarding particular operation or performance parameters that are available from the network device or application.

This portion of Garg also does not disclose receiving a user request at a receiving means that includes path information between two terminals and a measurement type. Instead, this portion of Garg describes that a request for information is sent, not received, from a collection module.

The Office Action also points to col. 13, ll. 19-22 and 30-32, which recite the following:

Network operation and performance analyzer 110 is also coupled to network analyzer tools 122. Tools 122 are used to obtain additional information regarding a problem or a potential problem.

Other tools are available to trace a path between two devices or systems in a network environment.

This portion of Garg does not disclose a receiving means as recited in the claims. Instead, this portion of Garg describes other tools that may be used to trace paths to gather information. Nowhere does Garg teach or suggest a receiving means that receives a user request including path information and measurement type. Indeed, the combination of Lutz and Garg is silent on receiving means as recited in the claims.

Furthermore, the claims recite both a receiving means and a measurement device selecting means. As noted above, a user in Lutz pre-selects an analyzer, sends this selection to a service provider, and specifies the network device. Thus, in Lutz there is no need for a receiving means or a measurement device selecting means. Because the user specifies the analyzers and/or network devices, there is no need to receive a user request that includes path information and/or measurement type. There is also no need for a measurement device selecting means because the user makes such selections. Thus, Lutz teaches away from the use of a receiving means and/or a measurement device selecting means.

The combination of Lutz and Garg does not teach each and every element of the claims.

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over JP 2002-016599 to Emiko et al. (“Emiko”), in view of what is well known in the art. Applicants traverse.

Generally, the claims recite an apparatus that, in part, includes receiving means that receive path information. This path information is then used by a measurement device information selecting means to select a measurement device based on the path information. There is nothing in Emiko, or the other cited references, such as Garg or Lutz, that both receives path information and selects a measurement device based on the path information. The combination of receiving the path information and using such information to select a measurement device is not disclosed in the cited art. Moreover, part of the novelty of the claimed apparatus is to receive path information and then select a measurement device based on the path information received from a user. Accordingly, claim 1 is not rendered obvious by Emiko.

Accordingly, in view of the above, claims 1-9 are not obvious in view of Lutz and Garg or Emiko, and allowance of the same is respectfully requested.

Conclusion

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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